



# **ESPN Thematic Report on Access to social protection of people working as self- employed or on non-standard contracts**

## **Belgium**

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**European Social Policy Network (ESPN)**

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contracts**

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## Summary

Over the last decade, the number of self-employed persons and persons in non-standard employment in Belgium has increased. Temporary employment and part-time employment became more popular and increasingly more people of foreign origin, in particular from EU-13 Member States, became self-employed. However, there might be an increased risk that self-employment has in some cases taken the form of 'bogus' self-employment. Therefore, various steps have been taken to fight 'bogus self-employment' in Belgium. Furthermore, figures for 2015 show that 17% of the self-employed are at risk of poverty. They have a much higher at-risk-of-poverty rate compared to employees (6%). Self-employed persons who are in a 'state of need' can be granted an exemption from social security contributions by the Commission for Exemption from Social Contributions. In 2014, some 4% of the self-employed in Belgium requested such an exemption. It is clear that further steps should be taken to lower the at-risk-of-poverty rate of self-employed persons.

The social contributions paid by the self-employed are a lower percentage than the joint contributions of employers and employees, but also confers fewer rights. Nonetheless, self-employed persons are covered by several branches of social security (healthcare and sickness benefits, long-term care, invalidity benefits, maternity benefits, family benefits, old-age pensions, survivors' pension). Moreover, there is also a social insurance in case of bankruptcy. The self-employed are not entitled to receive unemployment benefits or benefits granted on the basis of an accident at work or an occupational disease.

As a complement to the public social protection system, self-employed persons can be covered by non-compulsory private insurance schemes. The private insurance schemes will mainly complement public sickness benefits in cash and public old-age pensions (the first pension pillar). For instance, the Guaranteed Income Insurance is an insurance against the loss of income in case of sickness and invalidity. Furthermore, the Voluntary Supplementary Pension Scheme for the Self-Employed allows the self-employed to save for a supplementary pension. Some 46% of the self-employed exercising a main activity are covered by this non-compulsory private insurance scheme.

Recently, a number of measures have been adopted to improve the social status of self-employed persons but also to promote female entrepreneurship by the implementation of measures to improve work-life balance. For instance, as of 1 January 2017, maternity leave has been extended by 4 weeks. Self-employed women are now entitled to a maternity leave of maximum 12 weeks. Furthermore, the level of the minimum old-age pension for self-employed persons shows a strong increase over the last decade. Since August 2016 the minimum old-age pension for self-employed persons has become equal to the one for employees.

A well-developed public social protection system for self-employed persons exists in Belgium. The public provisions are sometimes even complemented by non-compulsory private insurance schemes. However, there might be a (small) imbalance between social contributions received from the self-employed and social benefits paid to them. This risk has probably increased during the last few years as many measures have been taken to improve the social protection of self-employed persons. Therefore, a comprehensive assessment of the need to increase the social security contributions of self-employed persons in response to the improvement of the public social protection system for self-employed should be made. The current contribution rates of the self-employed are degressive and decrease as income increases. This is in contrast to employees and their employers who pay a flat rate. Moreover, for self-employed persons there is an annual ceiling for contributions, which is not the case for employees. These rules are probably no longer tenable in the future.

## 1 Context: self-employment and non-standard contracts in the national economy and labour market

In 2015, there were roughly 4.55 million persons employed in Belgium. This implies an increase of 1.4% compared to 2010 (*Table 1*). The number of self-employed persons and persons in a non-standard employment has increased during the observed period. Matsaganis et al. (2015) defines non-standard employment as *"including the self-employed, employees with a temporary or fixed-term contract, and those working part-time or fewer than 30 hours per week, as well as family workers."* However, on the one hand part-time work and temporary employment may have become the standard in Member States or within certain sectors of activity. On the other hand other forms of non-standard employment are also possible. In the case of Belgium, there are also domestic workers employed in the service voucher scheme<sup>1</sup>, seasonal workers, persons employed in a flexi-job<sup>2</sup> and there is of course student work.<sup>3</sup> In addition, different types of cross-border employment will have an impact on the applicable social security rules. For instance, though posted workers are temporarily employed in Belgium, they will not fall under the Belgian social security system. Incoming frontier workers who reside in another Member State than Belgium will be protected by the Belgian social security system while outgoing frontier workers residing in Belgium will be protected by the social security system of their Member State of employment.

In 2015, the share of self-employed was about 14% of total employment in Belgium. The number of self-employed increased by 8% between 2010 and 2015 (*Table 1*). This is a much higher growth rate compared to the number of employees over the same period (only 0.4%). The share of self-employed without employees in particular has increased. Also temporary employment (+ 12%) and part-time employment (+ 4%) became more popular. Furthermore, almost 1 out of 4 employed persons worked part-time.

While women make up 46.5 % of total employment in Belgium, they represent 78.6% of part-time employed persons, 52.3% of temporary employees but only 31.7% of the self-employed (2015 figures).<sup>4</sup> This implies that 41.6% of the employed women work part-time. At EU level, this is one of the highest percentages (EU-28 average of 32.7%).<sup>5</sup> Nonetheless, this level decreased by 0.6% percentage points compared to 2010. Moreover, the number of men employed part-time or temporarily increased by 11% and 21% respectively between 2010 and 2015. Both figures are higher compared to the figures for women (4.6% and 2.8% respectively).

'Only' 8.6% of the female part-time workers in Belgium are working on an involuntary part-time basis because they are unable to find full-time work, representing still some 75,600 female part-time workers.<sup>6</sup> This is the lowest percentage of all EU Member States (EU-28 average of 25.7%).

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<sup>1</sup> Via the Service Voucher Scheme activities can take place both inside (cleaning, ironing, preparing food and doing occasional sewing work) and outside (ironing, shopping, supervised transport of persons with reduced mobility).

<sup>2</sup> The flexi-job is a new form of employment in Belgium. From the perspective of the worker, this system aims to allow people who have at least a 4/5th employment with one or several employers to receive an additional income from an employer of the hotel and catering sector. It is also a way to discourage undeclared work as the ordinary social security contributions are not applicable. The Belgian State secretary for the Fight against Social Fraud announced very recently his ambition to expand this system to other sectors of activity ('De Backer wil system flexi-jobs uitbreiden', in *De Standaard*, 15 January 2017).

<sup>3</sup> For instance, non-standard employment by collaborative economy service providers such as Uber.

<sup>4</sup> Eurostat – LFS [lfsa\_egan], [lfsa\_esgan], [lfsa\_etgaed] and [lfsa\_epgaed].

<sup>5</sup> Eurostat – LFS [lfsa\_eppga].

<sup>6</sup> Eurostat – LFS [lfsa\_eppgai].



**Table 1 Classification of the employment in Belgium, in 000, 2010 - 2015**

	2010	2011	2012	2013	2014	2015	% change 2010 - 2015	Share in total employment	
								2010	2015
Total employment	4,488.7	4,509.3	4,523.9	4,530.3	4,543.5	4,551.6	1.4%	100%	100%
Employees	3,844.1	3,864.4	3,874.9	3,847.2	3,879.6	3,860.7	0.4%	85.6%	84.8%
Self-employed	600.6	594.9	610.9	642.0	622.7	650.2	8.3%	13.4%	14.3%
<i>Of which with employees</i>	200.7	186.3	185.2	194.8	186.7	195.6	-2.5%	4.5%	4.3%
<i>Without employees</i>	400.0	408.5	425.7	447.2	436.0	454.6	13.7%	8.9%	10.0%
Temporary employees	312.0	346.4	315.4	315.8	336.0	348.2	11.6%	7.0%	7.7%
Part-time	1,079.4	1,131.6	1,135.6	1,119.9	1,094.6	1,125.7	4.3%	24.0%	24.7%
Agency worker						76.1			1.7%
Domestic workers employed in the service voucher scheme	95.6	103.3	115.0	120.9	124.6	130.8	36.8%	2.1%	2.9%
Seasonal workers						6.5			0.1%
Flexi-jobs						13.7			0.3%
Student work			441.7	446.9	459.5	478.7			10.5%
Incoming posted workers and persons active in two or more Member States		81.0	88.0	140.4	122.6	143.0	76.6%	1.8%	3.1%
Incoming frontier workers	46.0	45.9	46.5	47.6	47.6		3.4%	1.2%	1.0%

Source: Eurostat – LFS; National Social Security Office; National Institute for Health and Disability Insurance

The figures on self-employment mentioned in *Table 1* are from the Labour Force Survey (LFS). However, figures published by the National Institute for the Social Security of the Self-employed (*RSVZ/INASTI*) show that this is an underestimation of the total number of self-employed in Belgium. In 2015, there were some 648,000 self-employed exercising as their main activity (*Zelfstandige in hoofdberoep / Indépendant à titre principal*) and an additional 229,000 self-employed exercising as a complementary activity (*Zelfstandige in bijberoep / Indépendant à titre complémentaire*).<sup>7</sup> It appears that the LFS only count the self-employed exercising as a main activity.

Some 9 out of 10 self-employed are Belgian citizens (*Figure 1*). However, increasingly more people of foreign origin, in particular from EU-13 Member States, became self-employed. The EU-enlargements of 2004 and 2007 and in particular the transitional arrangements have caused a high number of (bogus) self-employed persons. Romanian migrants in particular have become self-employed. Recently, the Neutral Syndicate of Self-Employed (*Neutraal Syndicaat voor Zelfstandigen / Syndicat Neutre pour Indépendants, NSZ/SNI*) has warned of possible abuses of the self-employed status by people of foreign origin.<sup>8</sup> Moreover, the temporary restrictions on the free movement of workers are probably also a reason for the substantial rise of the number of posted persons (worker or self-employed).

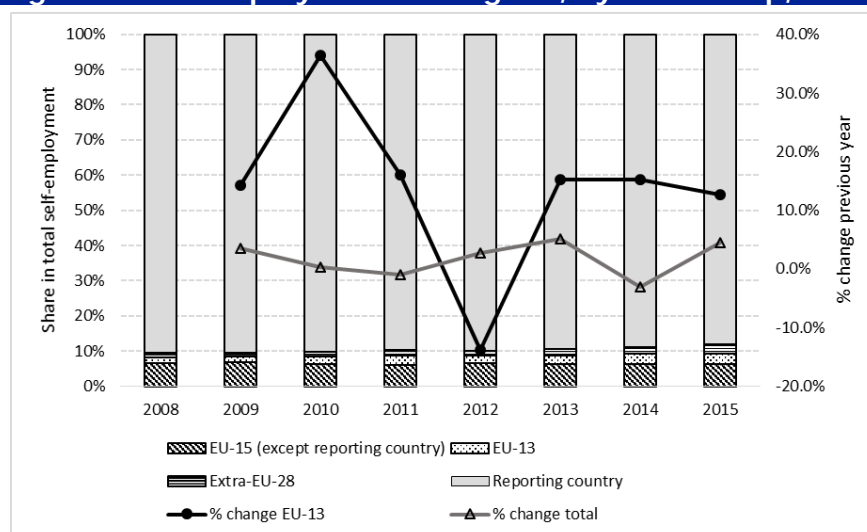
Not only has the number of self-employed increased substantially (*so-called 'verzelfstandiging'*) but also the number of established companies (*so-called 'vervennootschappelijking'*) (Pacolet & Strengs, 2011). The number evolved from 'only'

<sup>7</sup> Since the introduction of the flexi-job it possible to combine a standard salaried job with a non-standard salaried job and not only to combine a standard salaried job with a job as self-employed. In 2015 some 185,100 employed persons had a second job (Eurostat – [lfsa\_e2gps]). Most employees combined their job with a job as self-employed and not with a second salaried job.

<sup>8</sup> <http://www.nsz.be/nl/nieuws/detail/kwart-startende-ondernemers-is-buitenlander>

306,441 active companies in 2000 to 500,742 active companies in 2015, representing a rise of 63%.

**Figure 1 Self-employment in Belgium, by citizenship, 2008-2015**



Source: Eurostat – LFS

Various steps have been taken to fight 'bogus self-employment' in Belgium.<sup>9</sup> Nonetheless, labour inspectorates still experience difficulties to reclassify the status of a self-employed person in cases where a 'self-employed' working relationship has been concluded. On the basis of figures from the inspection services of the FPS Social Security it seems that only a limited number of cases are regulated (*Table 2*).<sup>10</sup> Nonetheless, for the most recent year 2014, many more persons were involved.

**Table 2 Bogus self-employment, number of regulations, 2011 -2014**

	2011	2012	2013	2014
Number of regulations	29	59	55	80
Number of persons involved	57	282	168	729
Amount (in million €)	0.7	3.3	1.8	12.8

Source: Inspection services of the FPS Social Security, Annual Reports 2011-2014.

Figures for 2015 show that 17% of the self-employed are at risk of poverty (*Table 3*). The percentage of self-employed at risk of poverty slightly decreased compared to 2010. However, the at-risk-of-poverty rate fell to its lowest level in 2013 and subsequently increased. Moreover, the self-employed show a much higher at-risk-of-poverty rate compared to employees (6%).

<sup>9</sup> In 2006, Belgium adopted a new legislation on the nature of labour relations in order to ensure legal security and to fight effectively against the phenomenon of bogus-employment. The Law of 25 August 2012 has changed a part of the Law of 2006.

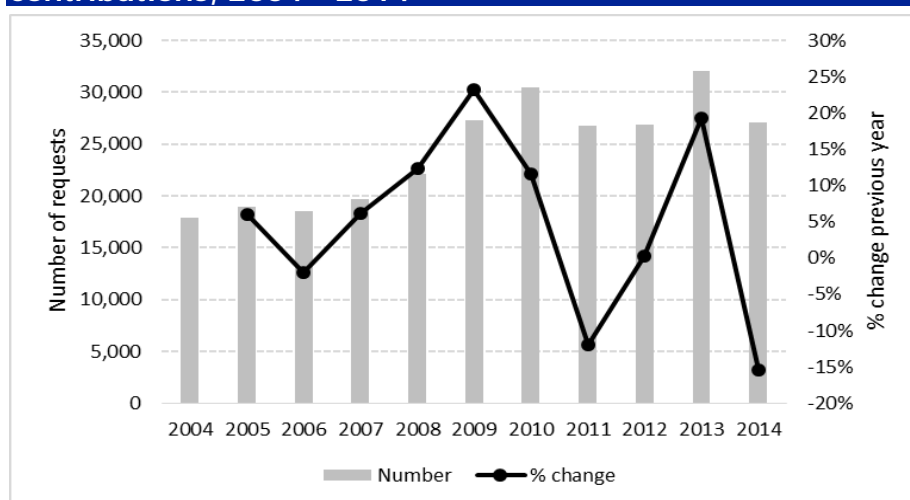
<sup>10</sup> No other figures are available to provide an estimate of the extent of bogus self-employment. In a recent report of the ILO (2016) a distinction has been made between 'bogus self-employment' and 'dependent self-employment'. The latter refers to "working relationships where workers perform services for a business under a contract different from a contract of employment but depend on one or a small number of clients for their income and receive direct guidelines regarding how the work is to be done" (ILO, 2016, p. 36).

**Table 3 People at risk of poverty, Belgium, by activity status, 2010 -2015**

	2010	2011	2012	2013	2014	2015	Change 2010 - 2015
Population	19.9%	20.2%	21.1%	20.5%	20.6%	20.4%	0.5 p.p.
Employed persons	6.5%	6.1%	6.6%	6.0%	6.7%	6.1%	-0.4 p.p.
Employees	5.1%	5.2%	5.6%	5.1%	5.5%	4.8%	-0.3 p.p.
Self-employed	17.3%	14.3%	15.6%	14.6%	16.1%	17.0%	-0.3 p.p.
Not employed persons	33.8%	34.6%	35.8%	35.5%	34.8%	34.6%	0.8 p.p.

Source: Eurostat – LFS

Self-employed persons who are in a 'state of need' can be granted an exemption from social security contributions for certain quarters by the Commission for Exemption from Social Contributions (*Commissie voor Vrijstelling van Bijdragen / Commission des dispenses de cotisations, CVB/CDC*).<sup>11,12</sup> The number of requests for an exemption could be considered as another useful at-risk-of-poverty indicator. Figure 2 shows that the number of requests for an exemption from social security contributions has increased over the last decade. In 2014, some 27,000 requests were made. However, this number was 15% less than 2013. This also implies that some 4% of the self-employed in Belgium have requested an exemption from social security contributions in 2014.

**Figure 2 Number of requests for an exemption from social security contributions, 2004 - 2014**

Source: FPS Social Security, Annual Report 2015

A number of measures have been adopted to improve the social status of self-employed persons but also to promote female entrepreneurship through the implementation of measures to improve work-life balance (for instance, the extension of compulsory health coverage for self-employed persons; young mothers who have resumed their activities as self-employed persons receive 105 free service vouchers; etc.).<sup>13</sup> All these measures will be discussed in chapter 2.

<sup>11</sup> <http://forms.xerius.be/docs/aanvraag-vrijstelling-sociale-bijdragen-zelfstandigen.pdf>

<sup>12</sup> <http://socialsecurity.belgium.be/fr/dispense-de-paiement-des-cotisations-sociales-pour-les-independants>

<sup>13</sup> For an overview of measures taken until 2010 see Plasman et al., 2010.

## 2 Description and assessment of social protection provision for self-employed and non-standard contracts

### 2.1 Overall approach<sup>14</sup>

In 1967, the 'social scheme for the self-employed' was created. A self-employed person is a natural person who exercises a professional activity in Belgium without being attached to an employer by means of an employment contract or status.<sup>15</sup> They can mainly have the status of a 'self-employed exercising as a main activity' or a 'self-employed exercising as a complementary activity'.

The self-employed exercising as a main activity pay their quarterly social security contribution to the social insurance fund they are affiliated with. This provisional contribution is calculated on the self-employed person's net professional labour income in the third calendar year ('reference year') preceding the year for which the contribution is due. *Table 4* provides an overview of the rates applicable in 2016 (income of 2013). As soon as the income of 2016 has been set officially, the contributions of 2016 will be calculated on the income of 2016. The social contributions paid by the self-employed are a lower percentage than the joint contributions of employers and employees, but confer fewer rights.

The current contribution rates of the self-employed are degressive and decrease as income increases. This is in contrast to employees and their employers who pay a flat rate. Moreover, for self-employed persons there is an annual ceiling for contributions, which is not the case for employees.

For the self-employed exercising as a complementary activity the same contribution rates as those applicable to self-employed exercising as a main activity apply. However, they have to pay a lower minimum contribution per quarter (EUR 77.37). Moreover, no social contributions are due for payment if the net annual professional income is lower than EUR 1,439.

Flexi-jobs were newly created (as of 1 December 2015) for the hotel and catering sector. The flexi-job contract enables employers to hire a worker at an hourly minimum wage of EUR 9.5 (EUR 8.82 + a flexi-holiday pay of EUR 0.68). Ordinary social security contributions are not applicable (the employer's contributions amount to  $\pm$  33% of the gross salary and the employee's contributions amount to 13.07% of the gross salary). Only a special employer contribution of 25% has to be paid. From the perspective of the worker, the new system aims to allow people who have at least a 4/5<sup>th</sup> employment with one or several employers to receive an additional income from an employer of the hotel and catering sector. The employee does not pay social security contributions and no personal income tax is due on the flexi-wage and flexi-holiday pay.

Finally, for student work only a solidarity contribution of 8.13% has to be paid.

Most of the persons with a non-standard contract have the same coverage as persons with a standard contract. However, for some workers lower contributions rates will be paid. This could be considered a 'social expenditure' (Pacolet & Strengs, 2011).

<sup>14</sup> See also Annex I.

<sup>15</sup> Royal Decree no. 38 of 27 July 1967 on establishment of the social status of self-employed persons.

**Table 4 Social security contributions to be paid**

Type of employment relationship	
<b>Self-employed (main activity)</b>	
<i>Professional income per bracket</i>	<i>Amount of the provisional contribution</i>
Up to €13,010.66	€699.32 per quarter
Between €13,010.66 and €56,182.45	21.5% of net professional income
Between €56,182.45 and €82,795.16	14.16% of net professional income
Over €82,785.16	€0
<b>Self-employed (complementary activity)</b>	
Lower minimum contribution (€77.37) per quarter. No social contributions if net annual professional income lower than €1,439.	
<b>Employed</b>	
Employer's social security contributions	± 33%
Employee's social security contributions	13.07%
<b>Flexi-job</b>	
Only a special employer contribution of 25% has to be paid.	
<b>Part-time worker</b>	
In order to 'reduce and reorganize working time' there exist a reduction of employer's social contributions of €400 per quarter for an employee who works less than 38 hours. This measure can last up to 4 years. Furthermore, the reduction can be extended to €1,000 in case of a 4-days week	
<b>Student work</b>	
No social security contributions have to be paid. Only a 'solidarity contribution' of 8.13% is applicable (employees: 2.71% + employers: 5.42%)	

Source: National Social Security Office; National Institute for the Social Security of the Self-employed; Plasman et al., 2015.

### 2.1.1 Healthcare and sickness: cash benefits and benefits in kind

#### Sickness benefits in kind

Coverage through the statutory system is compulsory and stands at a nearly universal rate of 99.5%. Just about every Belgian is insured under the system.

#### Sickness benefits in cash

The right to sickness benefits in cash is applied after a qualifying period of 6 months (for all categories excl. 'civil servants'). In case of sickness (i.e. incapacity to work) there is a waiting period of 1 month for self-employed persons (so-called '*carenz month*') (Table 5). During the first year of sickness (primary incapacity) the financial compensation of the National Institute for Sickness and Invalidity Insurance (*RIZIV/INAMI*) to the self-employed by the payment of a lump-sum benefit varies according to their family situation and according to whether or not they have stopped their self-employed activity.

**Table 5 Lump-sum benefit in case of incapacity for work, self-employed, applicable on 1 January 2016, per day in €**

	With dependants	Single persons	Cohabitants
Non-compensated period of one month	€ 0	€ 0	€ 0
Compensated period of incapacity to work (primary incapacity) (without stopping the activity)	€55.07	€42.01	€33.80
Invalidity (after primary incapacity) without stopping the activity	€55.07	€42.01	€33.80
Invalidity (after primary incapacity) on stopping the activity	€55.07	€44.07	€33.79

Source: National Institute for Sickness and Invalidity Insurance

In case of sickness, white-collar workers with a fixed-contract of less than 3 months (but also blue-collar workers) are treated differently from white-collar workers with an open-ended employment contract.<sup>16</sup> In case of sickness, the white-collar worker with an open-ended employment contract continues to receive his/her normal salary paid by the employer during a period of 30 calendar days. This is the so-called '*guaranteed salary*'. White-collar workers with a fixed-contract of less than 3 months, who have been employed for less than 1 month, are in case of sickness not entitled to a guaranteed salary at the employer's expense. If these workers have been employed for at least 1 month, they are entitled to a guaranteed 100% weekly salary at the employer's expense during the first 7 days. After the first 7 days of sickness, these workers can then claim 86.93% of their salary for the following 23 days (fully at the employer's expense between the 8<sup>th</sup> and 14<sup>th</sup> day of sickness; 26.93% at the employer's expense and 60% at the expense of the National Institute for Sickness and Invalidity Insurance (*RIZIV/INAMI*) between the 15<sup>th</sup> and 30<sup>th</sup> day of sickness).

### 2.1.2 Maternity/paternity cash benefits and benefits in kind

Before 1 January 2017, self-employed women were entitled to maternity leave of maximum 8 weeks (9 weeks in case of a multiple birth). It was not obligatory to take all the weeks. Only 3 weeks have to be taken, i.e. one week before giving birth and two weeks after. As of 1 January 2017, maternity leave has been extended by 4 weeks.<sup>17</sup> Self-employed women are now entitled to maternity leave of maximum 12 weeks of which 3 weeks compulsory are still. There is also a greater flexibility encouraging maternity leave as there is the possibility to continue working part-time. In addition to the extension of the duration of maternity leave, there is also the exemption from paying social security contributions during the period of maternity leave. Finally, young mothers who have resumed their activities as self-employed persons, receive 105 free service vouchers.

Fathers with a (non-)standard contract are entitled to 10 days of paternity leave. However, self-employed fathers cannot claim this right.

### 2.1.3 Old-age and survivors' pensions

The public schemes for old-age and survivors' pensions, respectively covering employees, the self-employed and civil servants, are the first and by far the most important pillar of

<sup>16</sup> <http://www.werk.belgie.be/defaultTab.aspx?id=42337>

<sup>17</sup> <http://borsus.belgium.be/nl/12-weken-moederschapsverlof-voor-de-vrouwelijke-zelfstandigen-en-modaliteiten-die-beter-aangepast>

the Belgian pension system. The retirement age is set at 65. As of 2016, the minimum age for obtaining an early pension was set at 62 years and the career duration at 40 years. The amount of the pension depends on the professional career and the incomes due throughout this career. If the self-employed can demonstrate a career at least equal to 2/3 of a full career (s)he may claim the minimum pension, which, for a complete career, stands at EUR 17,525.37 a year / EUR 1,460.45 a month (*household*) or EUR 14,024.72 a year / EUR 1,168.73 a month (*single*) (as of 1 August 2016).

#### 2.1.4 Unemployment benefits and social assistance benefits

Self-employed persons are not entitled to an unemployment benefit. Nonetheless, self-employed persons who cease work, but who have worked as salaried persons before (or who have been unemployed), can still be entitled to unemployment benefits under certain conditions.<sup>18</sup> In order to be entitled to an unemployment benefit, periods of insurance or (self-)employment need to be completed (i.e. qualifying period). This period varies according to the age of the insured person between 312 working days during the previous 21 months, and 624 working days over the previous 42 months. However, in Belgium periods of self-employment will not be taken into account in order to be entitled to an unemployment benefit.

Moreover, there is social insurance in case of bankruptcy, situations considered equivalent to bankruptcy or forced termination.<sup>19</sup> It allows the self-employed to receive financial aid for a period of up to 12 months and to maintain entitlement to benefits from the obligatory sickness and invalidity insurance, to healthcare and to child benefits. The financial aid consists of a monthly allowance equal to the monthly amount of the minimum pension, either at a single rate or the household rate. The self-employed person should have lost any professional income and should not be able to claim a replacement income.

#### 2.1.5 Long-term care benefits

Self-employed persons can receive a benefit if their child is seriously ill or if their child or partner is in need of palliative care. This arrangement has been changed (if the partner or up to a second degree relative is seriously ill or in need of palliative care) and expanded (including care for a disabled child aged below 25) since October 2015 (*'uitkering mantelzorg'*).<sup>20</sup> The self-employed activities can be suspended completely (100%) or partially (at least 50%). The monthly payment amounts to EUR 1,092 in case of a complete suspension of the self-employment activities and to EUR 546 in case of a partial suspension. The self-employed person is entitled to receive this allowance for a maximum period of 12 months during his/her complete career. In case of a complete suspension of self-employment activities per a period of three months, the self-employed person is entitled to an exemption from social security contributions for one quarter without losing his social security rights. This exemption is limited to four quarters during his/her complete career. Only a limited number of self-employed persons (22 in 2011) have made use of the old arrangement (before October 2015). No figures are available yet on the use of the new arrangement (since October 2015).

Some other LTC benefits in cash are financed with government resources and not on the basis of contributions (for instance, the allowance for assistance to the elderly (AAE) (*Tegemoetkoming voor hulp aan bejaarden/ Allocation pour l'aide aux personnes âgées*))

<sup>18</sup> [http://www.rva.be/nl/documentatie/infoblad/t87#h2\\_5](http://www.rva.be/nl/documentatie/infoblad/t87#h2_5)

<sup>19</sup> The Law of 16 December 2015 containing various provisions concerning the self-employed persons' scheme has renamed this benefit 'bridging right' as from 18 January 2016.

<sup>20</sup> See Social Security Self-employed Entrepreneurs <http://www.rsvz.be/nl/news/een-uitkering-bij-mantelzorg-door-zelfstandigen>

or the integration allowance (IA) for those persons with a handicap (*Integratietegemoetkoming/Allocation d'intégration*). Furthermore, Flanders introduced an additional "Flemish Care Insurance" (*Zorgverzekering*) in 1999, covering the costs of non-medical help and services borne by people with reduced self-sufficiency. The system is organised as a residence-based compulsory insurance-type scheme.

### **2.1.6 Invalidity, accidents at work and occupational diseases benefits**

With regards to entitlement to an invalidity benefit, insurance is compulsory for the self-employed. Benefits are paid from the end of the period of primary incapacity (i.e. first 12 months of sickness). The lump-sum amount paid to self-employed persons varies according to their family situation and according to whether or not they have stopped their self-employed activity (see above - Table 5). In 2014, there were 22,353 disabled self-employed persons (National Institute for Sickness and Invalidity Insurance, 2015). This implies that some 3.6% of the self-employed were sick for longer than 1 year. This is a much lower percentage than for employees (7.8%).

No public social protection exists for the self-employed who had an accident at work or an occupational disease. But they can always fall back on the sickness and invalidity insurance from the self-employed persons' scheme.

### **2.1.7 Family benefits**

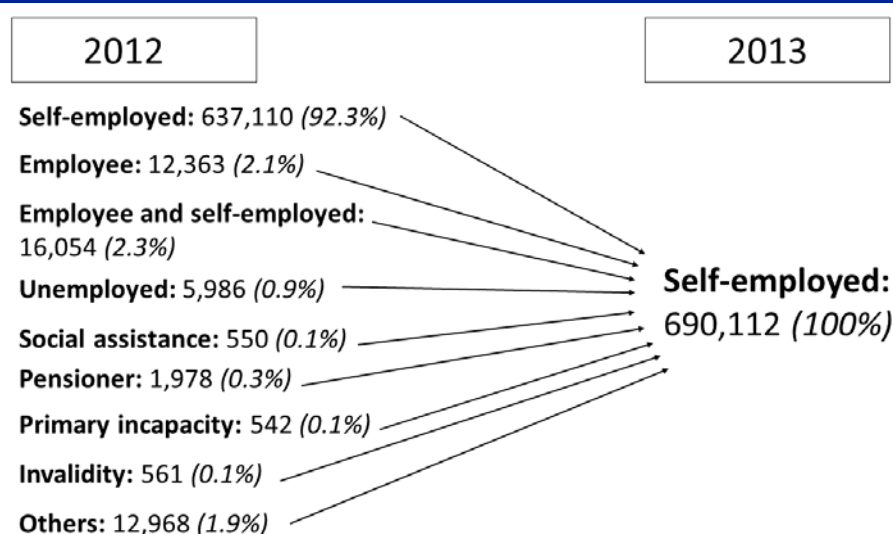
In Belgium, salaried persons, self-employed persons and civil servants are all entitled to family benefits which are linked to their occupational regime. The benefits consist of a monthly flat-rate benefit adjusted according to age. Furthermore, supplements may be granted under certain conditions. The self-employed who receive benefits under the bankruptcy insurance scheme (see above) will receive higher family benefits.

## **2.2 Assessment of the existing social provisions and of the impact of possible extension of their coverage**

No national studies assessing the impact of a possible extension of the social security coverage of self-employed persons and persons with a non-standard contract are available. Nonetheless, an assessment of the existing social provisions for self-employed persons and persons with a non-standard contract could be made by comparing these social provisions with the social provisions for persons with a standard contract. Moreover, their coverage could also be compared to the contributions paid by self-employed persons and persons with a non-standard contract as both are supposed to be 'communicating vessels'.

Based on the Datawarehouse Labour Market and Social Protection of the Crossroads Bank for Social Security, it is possible to analyse socio-economic mobility in Belgium. Some 8% of the self-employed in 2013 did not have this status in 2012 (*Figure 3*). Some 12,363 employees, 16,064 persons (both employee and self-employed) exercising a complementary activity and 5,986 unemployed persons became self-employed exercising as a main activity in 2013. Furthermore, a limited number of pensioners and disabled persons became self-employed in 2013. This is a first indication that social security provisions do not hamper the transition to self-employment. Moreover, some provisions even try to facilitate the transition from unemployment (see 2.2.4) or disability (see 2.2.1) to self-employment.



**Figure 3 Socio-economic mobility towards a self-employed status, from 2012 to 2013**

Source: Datawarehouse Labour Market and Social Protection of the Crossroads Bank of Social Security

Most of the persons with a non-standard contract (temporary employment, fixed-term contract, flexi-job<sup>21</sup>, etc.) have the same social rights as persons with a standard contract. Nonetheless, the adequacy of the social benefit can be (much) lower or other requirements have to be fulfilled in order to receive a social benefit. For instance, in case of sickness, salaried persons must have worked 120 days or assimilated days (paid vacation days and sickness leave days) during a period of 6 months prior to obtaining the sickness benefits in cash. However, part-time employees must have worked at least 400 hours during the qualifying period of 6 months. Furthermore, during the period of primary incapacity, the worker will receive 60% of his/her former salary. No minimum level has been determined for the first six months of sickness. This implies that persons with a non-standard contract in particular risk receiving a sickness benefit in cash below the poverty line. Persons with a non-standard contract also risk receiving a lower old-age pension.

Within the framework of 'student work' only a solidarity contribution has to be paid. They will be entitled to receive healthcare as a dependant person. One of the consequences of not paying social contributions is that students do not build up pension rights.

Self-employed persons are covered by several branches of social security (healthcare and sickness benefits, long-term care, invalidity benefits, maternity benefits, family benefits, old-age pensions, survivors' pension). Moreover, there is also a social insurance in case of bankruptcy. The self-employed are not entitled to receive unemployment benefits or benefits granted on the basis of an accident at work or an occupational disease.

As a complement to the public social protection system, self-employed persons could be covered by non-compulsory private insurance schemes. The private insurance schemes will mainly complement public sickness benefits in cash and public old-age pensions. For instance, the Guaranteed Income Insurance is an insurance against the loss of income in case of sickness and invalidity. Furthermore, the Voluntary Supplementary Pension Scheme for the Self-Employed (*PCLI/VAPZ*) allows self-employed to save for a supplementary pension.

<sup>21</sup> However, employees are not entitled to an end-of-year bonus. Moreover, the activities are not taken into account for the occupational pension scheme.

**Table 6 Contributions paid by self-employed as share in total, 2013**

Total social security contributions (in million €)	Social contributions paid by self-employed (in million €)	% of total
72,302	3,910	5.4%

Source: Circabc - ESSPROS Quantitative data

In 2013, the share of social contributions paid by the self-employed of the total social contributions received amounted to roughly 5% (Table 6). Besides the classical mode of financing the social security system by social security contributions (some EUR 72,302 million), there is also the so-called 'alternative financing'. Alternative financing consists partly of a percentage of the Value Added Tax (VAT) revenues and it amounts to almost a fifth of the revenues used to finance the social security system. Self-employed persons will also contribute to the alternative financing. These 'General government contributions' amounted to EUR 45,980 million in 2013.

From the expenditure side, sick leave benefits paid to the self-employed amounted to EUR 82 million in 2013 (Table 7). This is 5% of the amount paid by the National Institute for Sickness and Invalidity Insurance (RIZIV / INAMI) during primary incapacity to employees, an amount of EUR 1.6 billion. A similar share in total spending is paid during the period of invalidity (after primary incapacity). In 2013, an amount of EUR 280 million was paid to self-employed persons who were sick for longer than 1 year. Furthermore, 7.5% of the amount paid within the first pension pillar relates to self-employed persons (EUR 2.4 billion). Finally, 7% of total public spending on family benefits has been granted to self-employed persons (EUR 419 million).

Social contributions paid by the self-employed amounted to some 5% of total social contributions received, but social security spending for the self-employed amounted to 6 to 7%. So there might be a (small) imbalance between social contributions received from the self-employed (Table 6) and social benefits paid to them (Table 7).

Finally, private insurers have paid a considerable amount of benefits to persons on sick leave (EUR 673 million in 2013) and within the second pension pillar (EUR 4 billion in 2013). However, no breakdown between self-employed persons and employees can be made for these expenditures.

**Table 7 Benefits paid to self-employed as share in total, 2013**

Categories	Competent institution	Spending in 2013 (in million €)	Share in total	Share in total public spending
<b>Paid sick leave</b>				
<b>Total</b>		<b>3,249.7</b>	<b>100%</b>	
Continued payment by the employer	Employers of the private sector	759.3	23.4%	
Sickness benefits employees	National Institute for Sickness and Invalidity Insurance (RIZIV / INAMI)	1,556.8	47.9%	95.0%
Sickness benefits self-employed	National Institute for Sickness and Invalidity Insurance (RIZIV / INAMI)	82.1	2.5%	5.0%
Palliative care self-employed	National Institute for the Social Security of the Self-employed (RSVZ/INASTI)	0.0	0.0%	0.0%
Private insurers	Private companies (insurance companies and institutions of professional retirement)	672.8	20.7%	
<b>Disability pensions</b>				
<b>Total</b>		<b>4,835.0</b>	<b>100%</b>	
Invalidity employees	National Institute for Sickness and Invalidity Insurance (RIZIV / INAMI)	4,039.4	83.5%	83.5%
Invalidity self-employed	National Institute for Sickness and Invalidity Insurance (RIZIV / INAMI)	279.9	5.8%	5.8%
<b>Old-age pensions</b>				

<b>Total</b>		<b>37,802</b>	<b>100%</b>	
Old-age pensions employees	National Pensions Office	17,003	45.0%	53.7%
Old-age pensions civil servants	Central, provincial or local government	12,284	32.5%	38.8%
Old-age pensions self-employed	National Pensions Office	2,370	6.3%	7.5%
Private insurers (2nd pillar)	Private companies (insurance companies and institutions of professional retirement)	4,044	10.7%	
<b>Survivors' pension</b>				
<b>Total</b>		<b>8,010</b>	<b>100.0%</b>	
Survivors' pensions employees	National Pensions Office	4,782	59.7%	65.3%
Survivors' pensions civil servants	Central, provincial or local government	1,695	21.2%	23.2%
Survivors' pensions self-employed	National Pensions Office	843	10.5%	11.5%
Private insurers	Private companies (insurance companies and institutions of professional retirement)	444	5.5%	
<b>Family / child allowance</b>				
<b>Total</b>		<b>5,954</b>	<b>100.0%</b>	
Employees	Federal agency for family allowances (FAMIFED)	4,482	75.3%	75.3%
Civil servants	Federal agency for family allowances (FAMIFED)	1,052	17.7%	17.7%
Self-employed	Federal agency for family allowances (FAMIFED)	419	7.0%	7.0%
<b>Unemployment benefit</b>				
<b>Total</b>		<b>5,806</b>	<b>100.0%</b>	
Bankruptcy insurance for self-employed	National Institute for the Social Security of the Self-employed (RSVZ/INASTI)	7	0.1%	
Full unemployment benefit employees	National Employment Office (RVA/ONEM)	5,799	99.9%	
<b>Total</b>				
<b>Total</b>		<b>65,657</b>		
Social benefits paid to self-employed		4,001	6%	7%

Source: Circabc - ESSPROS Quantitative data

## 2.2.1 Healthcare and sickness: cash benefits and benefits in kind

### Sickness benefits in kind

An important development in this respect was the extension of compulsory coverage for self-employed persons from January 2008 onwards. Before this change, the compulsory health insurance for self-employed persons only covered what was known as "major risks". Other health care services – the "minor risks" – were not included in the package, but a self-employed person could purchase additional protection on the insurance market. The distinction between these categories of risk is now abolished, meaning that self-employed persons are, under the compulsory scheme, indemnified for the same risks as civil servants or employed persons.

### Sickness benefits in cash

Both self-employed persons and employees (with a standard or non-standard contract) are entitled to receive a sickness benefit in cash in case of incapacity for work. However, self-employed persons do not receive a percentage of their lost salary, as is the case for employed persons, but a lump-sum amount which varies according to their family situation and according to whether or not they have stopped their self-employed activity. The lump-sum amounts paid to self-employed persons are equal to the minimum amounts paid to employees after 6 months of sickness. As a result, the adequacy of the

sickness benefit in cash will be lower for self-employed persons. However, the low level of the sickness benefit could be complemented by the amount paid by the Guaranteed Income Insurance (non-compulsory private insurance).

Some 'return-to-work' measures have been introduced to facilitate the re-integration of people suffering long-term illness to the labour market in recent years. For instance, sickness and disability beneficiaries are allowed to work on a part-time basis and can accumulate sickness benefits and wages, if some conditions are fulfilled (OECD, 2013). For example, the work disability remains at least 50%. However, part-time work is not necessarily 50%, but can be less or more. Statistics of the National Institute for Sickness and Invalidity Insurance (*RIZIV/INAMI*) (2016a; b) for 2014 show that some 5% of the sickness beneficiaries made use of the possibility to work on a part-time basis.

### **2.2.2 Maternity/paternity cash benefits and benefits in kind**

As of 1 January 2017, self-employed women are entitled to a maternity leave of maximum 12 weeks. Nonetheless, this period is still somewhat lower than for salaried women. For salaried women, the maternity leave protection distinguishes between two periods: (1) the prenatal rest periods which may last 6 weeks maximum and (2) the postnatal rest period during 9 weeks after giving birth.

### **2.2.3 Old-age and survivors' pensions**

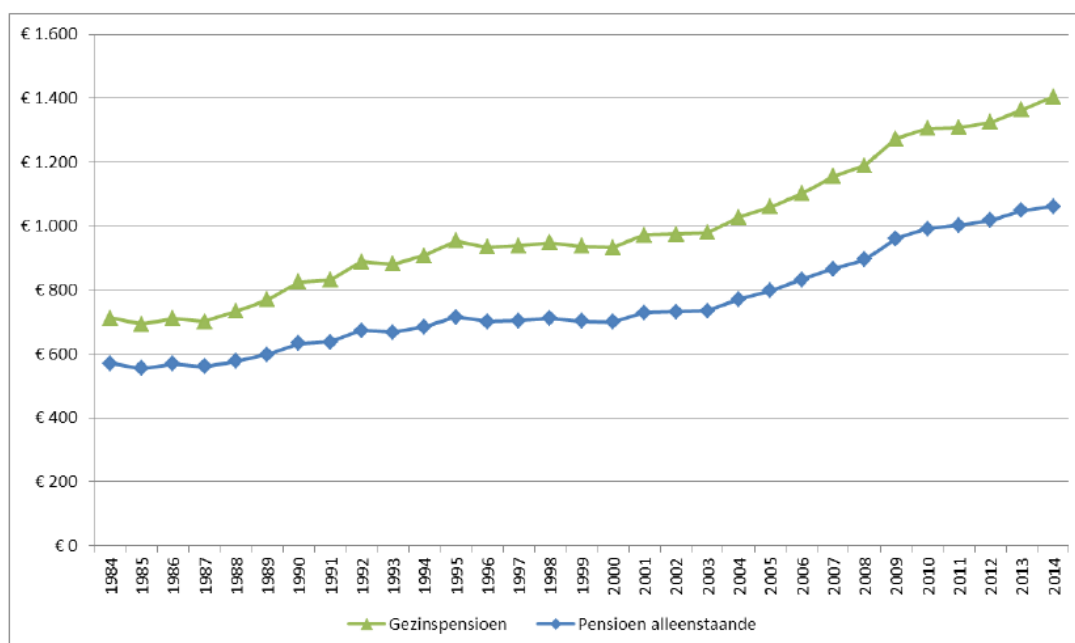
There are fundamental differences between the salaried persons' scheme, the public sector scheme and the self-employed persons' scheme as to the way a pension is calculated. A pension may be obtained in different systems, if the person has worked in several social security schemes during his/her career.

Over the last decade, the level of the minimum pension for self-employed persons shows a strong increase (*Figure 4*). It is the result of, on the one hand, a social policy focused on increasing incomes and purchasing power and, on the other hand, the aim to harmonise minimum protection levels for the self-employed and employees and the development of a fully-fledged social status for self-employed persons (Commission on Pension Reform 2020-2040, 2014). For the self-employed, the growth of minimum pensions was even higher than the growth of wages between 2000 and 2014 (EC, 2015).

Since August 2016 the minimum pension for self-employed persons has become equal to the one for employees. In this regard the Minister for Self-Employed Persons, Small and Medium-Sized Enterprises, Agriculture and Social Integration, Willy Borsus, announced "that over a period of a year and a half certain self-employed persons have seen their pensions increase 4 times".<sup>22</sup>

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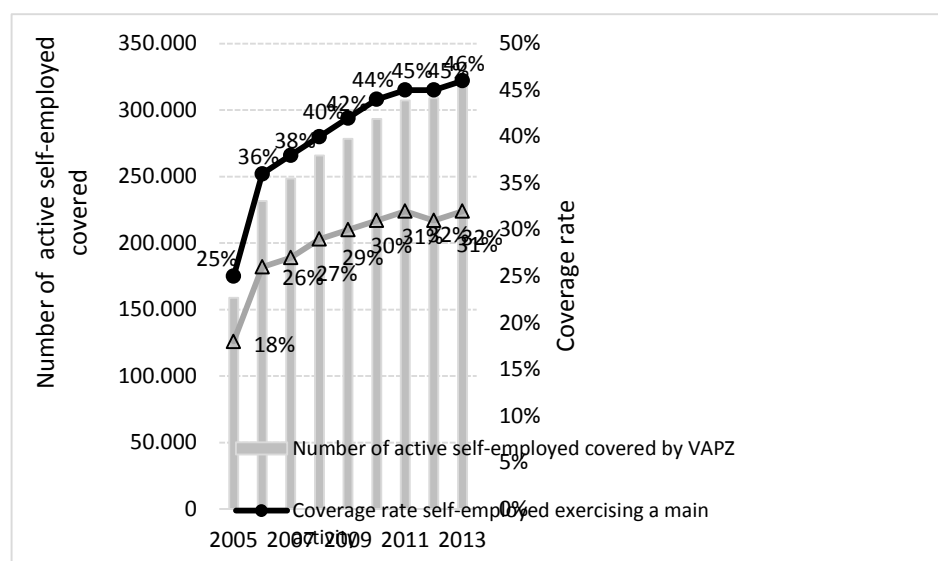
<sup>22</sup> <http://bacquelaine.belgium.be/en/new-%C2%AB-social-%C2%BB-pension-bonus>

**Figure 4 Evolution of the monthly minimum pension for self-employed persons, 1984 – 2014, in 2013 prices**

\* *Gezinspensioen*: family pension; *Pensioen alleenstaande*: single persons' pension.

Source: *Commission on Pension Reform 2020-2040*, 2014

The second pension pillar consists of a variety of occupational schemes. The third pension pillar is made up of personal retirement savings and life insurance schemes (EC, 2015). The Voluntary Supplementary Pension Scheme for the Self-Employed (*PCLI/VAPZ*) allows the self-employed to save for a supplementary pension. Some 46% of the self-employed exercising as a main activity are covered (*Figure 5*).

**Figure 5 Coverage rate of self-employed by the Voluntary Supplementary Pension Scheme for the Self-Employed, 2005 - 2013**

Source: *Financial Services and Markets Authority (FSMA)* (2015)

### 2.2.4 Unemployment benefits and social assistance benefits

Unemployed persons (excluding self-employed persons) receive 65% of their last salary during the first 3 months of unemployment. During the 9 subsequent months, they receive 60% of their last salary. Self-employed persons do not receive a percentage of their last salary from the social insurance in case of bankruptcy, but a lump-sum amount which varies according to their family situation. The monthly amount for a period of up to 12 months paid by the social insurance in case of bankruptcy, situations considered equivalent to bankruptcy or forced termination (EUR 1,460.45 (household) or EUR 1,168.73 a month (single)) might in some cases be higher than the unemployment benefit paid to former employees.

From 1 October 2016, under certain conditions, unemployed persons are entitled to cumulate their unemployment benefit with the status of 'self-employed exercising as a complementary activity'.<sup>23,24</sup> Furthermore, under certain conditions unemployed persons who wish to follow a training in order to become self-employed or preparing the setting up as a self-employed person are still entitled to an unemployment benefit.<sup>25</sup>

## 3 Conclusions and recommendations

Temporary employment and part-time employment became more popular and increasingly more people of foreign origin, in particular from EU-13 Member States, became self-employed. However, there might be an increased risk that self-employment in some cases has taken the form of 'bogus' self-employment. Therefore, various steps have been taken to fight 'bogus self-employment' in Belgium. The fight against 'bogus self-employment' should remain a priority for labour inspectorates. This also requires a stronger involvement of the National Institute for the Social Security of the Self-employed (*RSVZ/INASTI*).

Furthermore, figures for 2015 show that 17% of the self-employed are at risk of poverty. They have a much higher at-risk-of-poverty rate compared to employees (6%). Self-employed persons who are in a 'state of need' can be granted an exemption from social security contributions by the Commission for Exemption from Social Contributions. In 2014, some 4% of the self-employed in Belgium have requested an exemption from social security contributions. It is clear that further steps should be taken to lower the at-risk-of-poverty rate of self-employed persons. For instance, the coverage of social insurance in case of bankruptcy could be extended to persons who have financial difficulties but are not (yet) bankrupt (Service for the fight against poverty, insecurity, and social exclusion, 2013).

Most of the persons with a non-standard contract (temporary employment, fixed-term contract, flexi-job, etc.) have the same social rights as persons with a standard contract. Nonetheless, the adequacy of the social benefit can be (much) lower or other requirements need to be fulfilled in order to receive a social benefit. The social contributions to be paid by the self-employed are a lower percentage than the joint contribution of employers and employees, but also confers fewer rights. For instance, the self-employed are not entitled to receive unemployment benefits or benefits granted on the basis of an accident at work or an occupational disease. Nonetheless, self-employed persons are still covered by several branches of social security (healthcare and sickness benefits, long-term care, invalidity benefits, maternity benefits, family benefits, old-age pensions, survivors' pension). Finally, there is also a social insurance in case of bankruptcy. However, the level of benefits paid to the self-employed is sometimes lower than those paid to employees. For instance, this is the case for sickness benefits in cash

<sup>23</sup> <http://borsus.belgium.be/nl/zelfstandig-bijberoep-en-werkloosheid-meer-flexibiliteit>

<sup>24</sup> <http://www.rva.be/nl/documentatie/infoblad/t46>

<sup>25</sup> [http://www.rva.be/nl/documentatie/infoblad/t87#h2\\_5](http://www.rva.be/nl/documentatie/infoblad/t87#h2_5)

and invalidity benefits. Moreover, the period the 'social risk' is covered is sometimes lower for self-employed persons. For instance, this is the case for maternity benefits. Therefore, the aim could be to harmonise protection levels for the self-employed and employees.

Belgium has a well-developed public social protection system for self-employed persons. Public provisions are sometimes even complemented by non-compulsory private insurance schemes. However, there might be a (small) imbalance between social contributions received from the self-employed and social benefits paid to them. This risk has probably increased during the last few years as many measures have been taken to improve the social protection of self-employed persons. Therefore, a comprehensive assessment of the need to increase social security contributions of self-employed persons in response to the improvement of the public social protection system for the self-employed should be made. The current contribution rates of the self-employed are degressive and decrease as income increases. This is in contrast to employees and their employers who pay a flat rate. Moreover, for self-employed persons, there is an annual ceiling for the contributions, which is not the case for employees. These rules are probably no longer tenable in the future.

## Annex I

Figure A1.1 SUMMARY TABLE: ACCESS TO SOCIAL PROTECTION: SELF-EMPLOYED

	On her/his own account	With employees (self-employed employer)	Dependent on single client	Dependent on contractual relationship with client	Liberal professions (e.g. doctor, notary, lawyer)	Self-employed complementary activity
<b>Healthcare - cash benefits and benefits in kind</b>	Full	Full	Full	Full	Full	None
<b>Sickness - cash benefits and benefits in kind</b>	Full	Full	Full	Full	Full	None
<b>Maternity/paternity - cash benefits and benefits in kind</b>	Full	Full	Full	Full	Full	None
<b>Old age pensions (preretirement benefits and pensions)</b>	Full	Full	Full	Full	Full	None
<b>Survivors pensions and death grants</b>	Full	Full	Full	Full	Full	None
<b>Unemployment benefits</b>	Partial	Partial	Partial	Partial	Partial	None
<b>Social assistance benefits</b>	Full	Full	Full	Full	Full	None
<b>Long-term care benefits</b>	Full	Full	Full	Full	Full	None
<b>Invalidity benefits</b>	Full	Full	Full	Full	Full	None
<b>Accidents at work and occupational injuries benefits</b>	None	None	None	None	None	None
<b>Family benefits</b>	Full	Full	Full	Full	Full	None



**Figure A1.2 SUMMARY TABLE: ACCESS TO SOCIAL PROTECTION: CONTRACTUAL EMPLOYMENT (NON-STANDARD CONTRACTS)**

	Full-time employee	Part-time employee	Fixed-term employee	Temporary agency worker	Casual and seasonal workers	On-call workers	Zero-hour workers	Apprentices	Paid trainees	(Other) persons in vocational/professional training	Student work	Flexi job
Healthcare - cash benefits and benefits in kind	Full	Full	Full	Full	Full			None	Full		None	Full
Sickness - cash benefits and benefits in kind	Full	Full	Full	Full	Full			None	Full		None	Full
Maternity/paternity - cash benefits and benefits in kind	Full	Full	Full	Full	Full			None	Full		None	Full
Old age pensions (preretirement benefits and pensions)	Full	Full	Full	Full	Full			None	Full		None	Full
Survivors pensions and death grants	Full	Full	Full	Full	Full			None	Full		None	Full
Unemployment benefits	Full	Full	Full	Full	Full			None	Full		None	Full
Social assistance benefits	Full	Full	Full	Full	Full			None	Full		None	Full
Long-term care benefits	Full	Full	Full	Full	Full			None	Full		None	Full
Invalidity benefits	Full	Full	Full	Full	Full			None	Full		None	Full
Accidents at work and occupational injuries benefits	Full	Full	Full	Full	Full			Full	Full		None	Full
Family benefits	Full	Full	Full	Full	Full			None	Full		None	Full

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[http://www.nisse.be/en?\\_ga=1.258273034.1080689139.1461762798](http://www.nisse.be/en?_ga=1.258273034.1080689139.1461762798)

National Institute for Sickness and Invalidity Insurance (RIZIV/INAMI)  
<http://www.riziv.fgov.be/fr/Pages/default.aspx>

National Social Security Office <http://www.rsz.fgov.be/en>

### **Legal texts**

Royal Decree no. 38 of 27 July 1967 on establishment of the social status of self-employed persons.

